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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,823	10/23/2001	Francesco G. Salituro	VPI/99-01 CON US	1783
75	90 03/13/2003			
VERTEX PHA	ARMACEUTICALS II	EXAMINER		
130 Waverly Str		MCKENZIE, THOMAS C		
Cambridge, MA	02139-4242		WCKENZIE,	MOWASC
			ART UNIT	PAPER NUMBER
			1624	
			DATE MAILED: 03/13/2003	5

Please find below and/or attached an Office communication concerning this application or proceeding.

<u> </u>	Application No.	Applicant(s)				
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Office Action Cummons	10/035,823	SALITURO ET AL.				
Office Action Summary	Examiner	Art Unit				
7. 1444 NO DATE (11:	Thomas McKenzie Ph.D.	1624				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet w	ntn tne correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). Status	36(a). In no event, however, may a within the statutory minimum of thin will apply and will expire SIX (6) MON cause the application to become Al	reply be timely filed ty (30) days will be considered timely. ITHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).				
1) Responsive to communication(s) filed on 23 C	October 2001 .					
2a) ☐ This action is FINAL . 2b) ☐ Thi	is action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims 4) ☐ Claim(s) 1-13 is/are pending in the application						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.	, , , , , , , , , , , , , , , , , , , ,					
8) Claim(s) 1-13 are subject to restriction and/or e	election requirement.					
Application Papers						
9) The specification is objected to by the Examiner						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) The proposed drawing correction filed on		lisapproved by the Examiner.				
If approved, corrected drawings are required in reply to this Office action.						
12) The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120		0.440(.)(1)(0)				
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☒ None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No3. Copies of the certified copies of the priority documents have been received in this National Stage						
 3. Copies of the certified copies of the prior application from the International But * See the attached detailed Office action for a list 	reau (PCT Rule 17.2(a)).	_				
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
 a) ☐ The translation of the foreign language provisional application has been received. 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. 						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of	Summary (PTO-413) Paper No(s) Informal Patent Application (PTO-152)				

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DETAILED ACTION

1. This action is in response to an application filed on 10/23/01. There are thirteen claims pending. Claims 1-3 are compound claims. Claim 4 is a composition claim. Claims 5-13 are use claims. The application concerns some 3-oximino indole compounds, compositions, and uses thereof.

Election/Restrictions

- 2. Restriction to one of the following inventions is required under 35 U.S.C.121:
 - I. Claim 3 and parts of 1, 2, and 4-13, drawn to 3-oximino indoles, compounds of formula I with A^1 - A^4 = carbon and W = nitrogen, classified in class 548, subclass 483, among others.
 - II. Claims parts of 1, 2, and 4-13, drawn to 3-amido benzimidazoles, compounds of formula II with A^1 - A^4 = carbon and Z = nitrogen, classified in class 548, subclass 306.4, among others.
 - III. Claims parts of 1, 2, and 4-13, drawn to 3-acyl indoles, compounds of formula I with A^1-A^4 = carbon and W = carbon, classified in class 548, subclass 486, among others.
 - IV. Claims parts of 1, 2, and 4-13, drawn to 3-amido indoles, compounds of formula II with A^1 - A^4 = carbon and Z = carbon, classified in class 548, subclass 486, among others.

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- V. Claim parts of 1, 2, and 4-13, drawn to 3-oximino pyrrolopyridines, compounds of formula I with at least one of A¹-A⁴ = nitrogen and W = nitrogen, classified in class 546, subclass 113, among others.
- VI. Claims parts of 1, 2, and 4-13, drawn to 3-amido imidazolopyridines, compounds of formula II with at least one of A^1 - A^4 = nitrogen and Z = nitrogen, classified in class 546, subclass 118, among others.
- VII. Claims parts of 1, 2, and 4-13, drawn to 3-acyl pyrrolopyridines, compounds of formula I with at least one of A¹-A⁴ = nitrogen and W = carbon, classified in class 546, subclass 113, among others.
- VIII. Claims parts of 1, 2, and 4-13, drawn to 3-amido pyrrolopyridines, compounds of formula II with least one of A^1 - A^4 = nitrogen and Z = carbon, classified in class 546, subclass 113, among others.

If Applicants chose any of Groups V-VIII, then further restriction will be required as to the number and positions of the additional nitrogen atoms.

3. The inventions are distinct, each from the other because of the following reasons: the heterocyclic core of the structure given in claim 1 is the ring of formula I or of formula II. This ring is a mandatory feature and ranges in number of possible nitrogen atoms from one to five. These multiple claimed rings are chemically non-equivalent and are not art-recognized as sharing the same

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biological properties. Inventions I-III, V, and VI have acquired a separate status in the art as shown by their different classification, thus the patent search required for Group I is not co-extensive with that required for Groups II-VIII. The basic names of these heterocyclic compounds differ, thus the literature search for these various species will be divergent. Because these inventions are distinct for the reasons given above, restriction for examination purposes as indicated is proper.

Although Groups III and IV and V, VII, and VIII share the same classification respectively, Applicants themselves consider these different heterocyclic cores by using different formulas to represent them. A reference against a compound of formula I would not be a reference against a compound II. Thus, the formulas are patentably distinct. In addition, the basic names of these heterocyclic compounds differ, thus the literature search for these various species will be divergent.

Should Applicants traverse the restriction requirement on the grounds that the different core rings are not patentably distinguishable, Applicants should identify such evidence now of record or submit any such evidence that shows the groups to be obvious variants. Such evidence may be used in a rejection under 35 USC 103(a) if the Examiner finds any of the Groups unpatentable over the prior art.

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4. Applicant is advised that the reply to this requirement to be complete must

include an election of the invention to be examined even though the requirement is

traversed (37 CFR 1.143).

Conclusion

5. Please direct any inquiry concerning this communication or earlier

communications from the Examiner to Thomas C McKenzie, Ph. D. whose

telephone number is (703) 308-9806. The FAX number for before final

amendments is (703) 872-9306. The Examiner is available from 8:30 to 5:30,

Monday through Friday. If attempts to reach the Examiner by telephone are

unsuccessful, you can reach the Examiner's supervisor, Mukund Shah at (703)

308-4716. Please direct general inquiries or any inquiry relating to the status of

this application to the receptionist whose telephone number is (703) 308-1235.

Thomas McKenzie, Ph.D.

Patent Examiner

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TCMcK

March 10, 2003